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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 In Re:) **SIXTH AMENDED**
11) **GENERAL ORDER 96-05**
12 ATTORNEY DISCIPLINE PROCEDURES)
13 IN BANKRUPTCY COURT)
14 _____

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16 **Applicability**

17 This general order establishes a process for court wide discipline of attorneys in the
18 bankruptcy court.

19 These procedures shall apply when any judge of this court wishes to challenge the
20 right of an attorney to practice before this court or recommends the imposition of attorney
21 discipline intended to apply in all bankruptcy cases in this court.

22 Nothing in this general order is intended to limit or restrict the authority of any judge
23 to impose sanctions on any attorney in any case or cases assigned to that judge.

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25 **Initiation of Disciplinary Proceedings**

26 If a bankruptcy judge wishes to initiate disciplinary proceedings under this general
27 order, that judge (the "Referring Judge") shall prepare and file with the Clerk of Court
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1 a written Statement of Cause setting forth the judge's basis for recommending discipline and
2 a description of the discipline the referring judge believes is appropriate.

3 The clerk shall open a case file, assign a miscellaneous case number, and initiate a
4 docket for the file. The clerk shall then send notice to all judges of this Court, including any
5 judges on recall, with the Statement of Cause and provide a two-week deadline for any judge
6 to add any additional statement. The clerk shall then select three bankruptcy judges of this
7 district at random (excluding the judge who filed the Statement of Cause and any judge who
8 sent an additional statement) to serve on the Hearing Panel (the "Panel") which will
9 determine whether the attorney shall be disciplined and, if so, the type and extent of
10 discipline. If any of the Statements of Cause have not been served on the attorney under
11 review, they shall be sent to the attorney named in the Statement(s) of Cause. The most
12 senior judge assigned to the Panel shall be the Presiding Judge. The clerk shall prepare a
13 Designation of Hearing Panel and Presiding Judge which shall include a signature line for
14 each of the designated judges. The signature of each judge shall certify his or her
15 acceptance of assignment to the Panel. Should any judge decline to serve, the clerk shall
16 select another judge to serve on the Panel, give written notice thereof to the other judges on
17 the Panel and issue a Supplemental Designation of Hearing Panel, which shall contain a
18 signature line for the newly appointed judge to accept the assignment.

19 Once the clerk has obtained the acceptance of three judges to serve on the Panel,
20 the clerk shall prepare a Notice of Assignment of Hearing Panel, which the clerk will serve
21 on the attorney named in the Statement of Cause ("the attorney") and on the local Office of
22 the United States Trustee, along with a copy of the Statement of Cause and a copy of this
23 general order. The attorney may file a motion for recusal as to any of the judges assigned
24 to the Panel within 14 days of the service of the Notice of the Assignment of Hearing Panel
25 and serve the motion on the Office of the United States Trustee. That motion may be heard
26 by any judge other than the referring judge, any judge who sent an additional statement, any
27 judge assigned to the Panel, or any judge who has declined to serve on the Panel. The
28 assignment of the recusal motion to a judge shall be made at random by the clerk, who shall

3 Once the period for bringing a recusal motion has terminated, or after disposition of
4 any recusal motion, the Presiding Judge shall advise the clerk of the date, time, and place
5 for the Disciplinary Hearing, whereupon the clerk shall prepare a Notice of Disciplinary
6 Hearing and mail the notice to the attorney and to the Office of the United States Trustee at
7 least 21 days before the hearing date.

8 If, at any point in this process, a judge has accepted assignment of a case but must
9 later withdraw, the clerk will randomly assign another judge to the Panel. The above
10 procedure for acceptance of assignment to the panel and opportunity to file a motion for
11 recusal will be followed as to the judge substituting in to the Panel.

Whenever the California State Bar suspends or disbars an attorney who has an active case in this court, the Chief Judge (or another judge of the Court designated by the Chief Judge) will issue an order to show cause to the attorney requiring him or her to explain why the same discipline should not be imposed suspending or disbaring that attorney from practicing before this court. If no response is received by the deadline provided, the attorney will be barred or suspended from practice in front of this court with no further proceedings. If the attorney responds and wishes to challenge further suspension or disbarment, the Clerk shall open a case file and proceed in the same manner as provided for in the above initiation of proceedings. If requested, the attorney must authorize the State Bar to share appropriate files with the disciplinary panel as part of its review.

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25 The Panel or any member thereof may request additional information concerning the
26 conduct of the attorney in the subject case or any other case from the Referring Judge, the
27 United States Trustee and/or another judge(s) in this district. Any such request (a "Request")
28 shall be in writing and shall be filed in the disciplinary proceeding and served on all members

of the Panel, the attorney, the United States Trustee and the party or parties to whom the Request is directed. The Request shall specify a deadline for the response.

Any response(s) to a Request (a "Response") shall be in writing and shall be filed in the disciplinary proceeding and served on all members of the Panel, the attorney and the United States Trustee. The attorney may file a written reply to a Response within 7 days after service of the Response. A copy of the reply shall be served on all members of the Panel, the United States Trustee and the party who filed the Response.

Except in a Response or as otherwise authorized in this Order, the Referring Judge and any judge who sent an additional statement shall not communicate with the Panel concerning the merits of a pending disciplinary proceeding.

Hearing Procedures

The attorney may appear at the Disciplinary Hearing with legal counsel and may present evidence:

- (A) Refuting the statements contained in the Statement of Cause;
- (B) Refuting the statements contained in a Response;
- (C) Mitigating the discipline (i.e., that, notwithstanding the validity of the statements in the Statement of Cause or a Response, the attorney should not be disciplined); and
- (D) Bearing on the type and extent of disciplinary action appropriate under the circumstances.

The Federal Rules of Evidence shall apply to the presentation of evidence at the Disciplinary Hearing, and an official record of the proceedings shall be maintained as though the Disciplinary Hearing were a contested matter as that term is defined in the Federal Rules of Bankruptcy Procedure. The United States Trustee for the district may appear at the hearing in person or by counsel and may participate in the presentation of evidence as though she or he were a party to the proceeding. If the United States Trustee wishes to appear at the hearing, she or he must file a Notice of Intent to Appear, setting forth the purposes for the appearance, and serve that notice on the attorney at least 14 days before

1 the hearing. The Panel may disregard written statements or declarations of innocence or in
2 mitigation of the attorney's conduct unless they are filed with the court with copies delivered
3 promptly thereafter to the chambers of each member of the Panel at least 7 days prior to the
4 hearing. Written statements presented to the Panel for consideration as evidence by or on
5 behalf of the attorney may be disregarded by the Panel if the declarant is unavailable at the
6 hearing for cross-examination and for examination by the Panel.

7 **Ruling**

8 At the conclusion of the Disciplinary Hearing, the judges of the Panel will adjourn to
9 a private session to consider the matter. The ruling of the Panel will be made by majority
10 vote of the judges on the Panel. The Presiding Judge will assign to a judge in the majority
11 the task of drafting the Panel's Memorandum of Decision setting forth the majority's decision
12 and its reasons. Any member of the Panel may issue a concurring or dissenting opinion
13 which will be made a part of the Memorandum of Decision.

14 The Panel shall issue a Discipline Order signed by all members of the Panel based
15 on the Panel's Memorandum of Decision. That order may provide for any appropriate
16 discipline, including but not limited to revocation or suspension of the right to practice before
17 all the judges of this court. A copy of the entered Discipline Order shall be served on the
18 attorney, all judges of the United States Bankruptcy Court for the Central District of California
19 and the United States Trustee.

20 The attorney, the Referring Judge and/or the United States Trustee may file a motion
21 for rehearing, clarification or more detailed findings (a "motion for rehearing") within 14 days
22 after entry of the Discipline Order. (Nothing contained in this order precludes the Panel
23 appointed in a given disciplinary proceeding from concluding that a Referring Judge lacks
24 standing to file a motion for rehearing.)

25 The Discipline Order will become final 14 days after entry or, if a motion for rehearing
26 is filed, 14 days after entry of an order denying the motion for rehearing. The same rule as
27 to finality will apply to a new or revised Discipline Order, if one is issued by the Panel after
28 rehearing.

1 The Discipline Order shall be sent by the clerk to the Clerk of the District Court.
2 Should the Panel so order, a Discipline Order also may be transmitted by the clerk to the
3 State Bar of California or published in designated periodicals, or both.

4 If an attorney's practice privileges have been revoked, modified, or suspended by
5 final order of a Panel, the attorney may not appear before any of the judges of this court
6 representing any other persons or entities except in compliance with the terms of the
7 Discipline Order.

8 **Reinstatement**

9 An attorney whose privileges have been revoked, modified, or suspended under this
10 general order may apply to the Chief Judge of this court for reinstatement of privileges on
11 the following schedule:

- 12 (A) If privileges were revoked without condition for an unlimited period of
13 time, the attorney may apply for reinstatement after five years from the
14 date the Discipline Order becomes final;
- 15 (B) If privileges were revoked or suspended with specified conditions
16 precedent to reinstatement, the attorney may apply for reinstatement
17 upon fulfillment of the conditions set forth in the Discipline Order; and
- 18 (C) If privileges were suspended for a specified period of time, the attorney
19 may apply for reinstatement at the conclusion of the period of
20 suspension or five years after the Discipline Order becomes final,
21 whichever first occurs.

22 An Application for Reinstatement of Privileges must include a copy of the Discipline
23 Order, proof that all conditions justifying reinstatement have been fulfilled, and proof that the
24 applicant is in good standing before the United States District Court for the Central District
25 of California and is a member in good standing of the State Bar of California. If the attorney's
26 privileges were revoked, or if the suspension was for a time in excess of five years and was
27 without any conditions precedent to reinstatement, it shall be within the sole discretion of the
28 Chief Judge whether to issue a reinstatement order. If the Chief Judge determines that the

1 attorney is entitled to reinstatement of practice privileges, he or she may issue a
2 Reinstatement Order. Upon entry of the Reinstatement Order, the attorney affected thereby
3 shall be deemed eligible to practice before all the judges of this court except to the extent
4 any judge of this court has issued an order, other than under this rule, denying that attorney
5 the right to appear before that judge or to appear in a particular case.

6 Upon entry, the clerk shall transmit a copy to all judges of this court and to the
7 attorney, the clerk of the District Court, and to the United States Trustee. In addition, if the
8 Discipline Order was sent to the State Bar or published, the Clerk shall transmit the
9 Reinstatement Order to the State Bar and publish it in the same publication, if possible. If
10 the Chief Judge does not grant the Application for Reinstatement of Privileges, he or she
11 shall issue an order denying the application together with a separate written statement of
12 the reasons for his or her decision. That order will become final 14 days after entry.

13 If an attorney's Application for Reinstatement of Privileges is denied, he or she may
14 reapply for reinstatement after one year from the date of entry of the order denying the
15 previous application or within such other time or upon fulfillment of such conditions as may
16 be set forth in the order denying reinstatement.

Maintenance of Discipline Files

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19 Except to the extent that access to a particular file is restricted or prohibited by order
20 of the Chief Judge or the Panel to which the matter was assigned, (1) those files shall be
21 maintained in accordance with applicable law and rules for maintenance of miscellaneous
22 files of this court and shall be available for review and copying by members of the public,
23 and (2) orders, opinions and written memoranda issued in these matters shall be published
24 on the court's website.

25 The clerk shall close a disciplinary file 30 days after entry of a dispositive order
26 (for example, an Order Re Revocation of Privileges or a Reinstatement Order) in that
27 proceeding unless within that time the clerk receives a Notice of Appeal of any order
28 rendered in the proceeding or other information justifying maintenance of the file in an open

1 status. The clerk shall reopen a disciplinary file upon the request of the attorney, for the
2 convenience of the court, or upon order of any judge of this court, whereupon the clerk shall
3 advise the Chief Judge accordingly. So long as any disciplinary files remain open, the clerk
4 shall provide the Chief Judge a quarterly status report of all such open files to which will be
5 attached copies of their dockets. The Chief Judge may order any such files closed when he
6 or she deems it appropriate, consistent with the provisions hereof and the status of any such
7 matter.


8 **Motion to Have Opinion Removed from Website**

9 At any time after the entry of a Reinstatement Order, the attorney may apply to the
10 Chief Judge of this court for an order directing the Clerk to remove the Discipline Order and
11 any related opinion and memoranda from the court's website. An application for this relief
12 must include a copy of the Discipline Order and the Reinstatement Order. It shall be within
13 the sole discretion of the Chief Judge whether to grant such an application.

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15 **Appeals**

16 All orders issued pursuant to this rule shall be appealable to the extent permitted by
17 applicable law and rules of court.

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19 Date: December 18, 2019

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22 **Maureen Tighe**
23 Chief Judge, United States Bankruptcy Court
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